IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3777 OF 2004

Nitin Madhav Wahalkar and anr. ... Applicants

versus

State of Maharashtra ... Respondent

...

Mr. V.S. Talkute, for the Applicants.

Mr. D.R. More, A.P.P., for the Respondent.

...

CORAM : A.M.KHANWILKAR,J.

21st September 2004

P.C.:

. Heard Counsel for the parties. The Sessions Court has rejected the bail application preferred by the Applicants essentially on the ground that second bail application was filed by making misleading statement that it was first bail application. The Applicants filed application, which is at Exhibit E, to explain the position that the statement appearing in the bail application in paras 4 and 5 was due to inadvertance. The Sessions Court, however, did

not accept the said explanation. Having considered the relevant pleadings, to my mind, there is some substance in the explanation offered by the Applicants that the statement appearing in the bail application in paras 4 and 5 was due to inadvertance. On this reasoning, instead of going into the matter on merits, the appropriate course would be to relegate the Applicants before the Sessions Court with liberty to file fresh application for bail, which will be decided by the Sessions Court on its own merits in accordance with law, as the Applicants have not filed any other application after the filing of chargesheet. Application disposed of on the above terms.

(A.M.KHANWILKAR,J.)